



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: MENARD et al.

Application No. 09/883,963

Group Art Unit: 2612

Filed: June 20, 2001

Examiner: Shimizu, M.

For: SECURE SYSTEM FOR CONTROLLING THE UNLOCKING OF AT LEAST
ONE MOTOR VEHICLE OPENING PANEL

REPLY BRIEF

July 17, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1451

Dear Sir:

In response to the Examiner's answer dated May, 2006,
please consider the following remarks and reverse the decision
of the Examiner in whole. Applicant has filed a request for an
oral hearing concurrently herewith and alternately hereby
requests said oral hearing. Applicant hereby authorizes the
Commissioner to charge deposit account no. 50-0548 for any
necessary fees.

Regarding claim 1, the Examiner concedes that Lambropoulos
(Primary reference) fails to disclose many of the claimed
limitations. Examiner's Answer pages 5-6. However, despite the

Examiner's assertion to the contrary, the prior art fails to disclose synchronization dependant on substantially correlation within a time shift less than required for an intermediate transmission to intercept and retransmit a response signal. Applicant believes the arguments contained in the Appeal brief and the prior art references themselves clearly support this omission and will be further supported during the oral hearing. The Examiner's rejections should be reversed on this omission alone. Furthermore, even if Zeimer were to disclose autocorrelation between two signals, the prior art further lacks both 1) the rejection of such an uncorrelated signal and 2) any requirement of substantial correlation as a requirement to unlock a vehicle panel. Assuming arguendo, even if the prior art were to suggest a preferred use for correlated signals within the generic teaching of spread spectrum demodulation, the scheme of rejecting uncorrelated signals is absent in the prior art disclosure. Moreover, there certainly is no disclosure teaching, or even a suggestion to require correlation as a prerequisite to control the unlocking of a vehicle panel.

Regarding the remaining claims, Applicant stands by the arguments proffered in the Appeal brief and will be briefly discussed during the oral hearing. However, it is interesting to note that the Examiner has apparently admitted that the prior art does not itself disclose the

motivation to support the modifications to support the rejection. Regarding claims 13 the Examiner boldly asserts "Furthermore, since Lambropoulas is a primary prior art, motivation is not provided". (Examiner's Answer, page 17, lines 6-7.) In order to sustain a prima facie case of obviousness, the prior art must teach or suggest all of the claimed limitations and the teaching and suggestion to make claimed combination and reasonable expectation of success must be found within the prior art and not based on applicant's disclosure. MPEP 2143. The Examiner's failure to identify sufficient motivation, let alone where it exists within the prior art, is alone reason to reverse the obviousness rejections of claims 12-24 and particularly claim 13 where the Examiner admits "motivation is not provided".

Regarding claims 16-26, the Examiner has now apparently withdrawn Yamamoto as a reference to substantiate the rejection. The Examiner has thus effectively changed the rejection and now simply asserts "that all the limitations in claims 16-26 are taught in prior arts of Lambropoulos and Bates." However, the Examiner conveniently fails to identify where such limitations are found within these references. Applicant maintains that Lambropoulas and Bates fail to disclose the

respective limitations of claims 16-26 and further relies on the Appeal Brief for further deficiencies in the Examiner's rejections.

The Examiners rejections all have a common theme in that the Examiner has clearly reconstructed the claimed invention by piecemealing together several unrelated references to support an obviousness rejection under 35 U.S.C. 103. Not only are several limitations void in the art, but the Examiner has failed to identify the proper motivation to support the resultant combination, and in fact admitted to such regarding claims 13. Thus all of the rejections regarding claims 12-26 under 35 U.S.C. 103 should be reversed.

In view of the foregoing, it is respectfully requested the Examiner's rejections be reversed and the application passed to issuance.

Respectfully submitted:

By: 

Matthew F. Johnston
Reg. No. 41,096

Berenato, White & Stavish
Suite 240
6550 Rock Spring Drive
Bethesda, Maryland 20817
Tel. 301-896-0600
Fax 301-896-0607